

translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT-Article 36 and Rule 70)

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PCT/EP2003/007338



Applicant's or agent's file reference 010941WO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/007338	International filing date (day/month/year) 08 July 2003 (08.07.2003)	Priority date (day/month/year) 10 July 2002 (10.07.2002)
International Patent Classification (IPC) or national classification and IPC B65B 7/28		
Applicant SIG TECHNOLOGY LTD.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of \_\_\_\_\_ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 09 January 2004 (09.01.2004)	Date of completion of this report 20 October 2004 (20.10.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/007338

## I. Basis of the report

1. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

☐ the international application as originally filed.

☒ the description, pages 1-11, as originally filed,  
pages \_\_\_\_\_, filed with the demand,  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_.

☒ the claims, Nos. 1-11, as originally filed,  
Nos. \_\_\_\_\_, as amended under Article 19,  
Nos. \_\_\_\_\_, filed with the demand,  
Nos. \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
Nos. \_\_\_\_\_, filed with the letter of \_\_\_\_\_.

☒ the drawings, sheets/fig 1/2, 2/2, as originally filed,  
sheets/fig \_\_\_\_\_, filed with the demand,  
sheets/fig \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
sheets/fig \_\_\_\_\_, filed with the letter of \_\_\_\_\_.

2. The amendments have resulted in the cancellation of:

☐ the description, pages \_\_\_\_\_

☐ the claims, Nos. \_\_\_\_\_

☐ the drawings, sheets/fig \_\_\_\_\_

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

4. Additional observations, if necessary:

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/07338

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	1-11	YES
	Claims		NO
Inventive step (IS)	Claims	4, 5, 7	YES
	Claims	1-3, 6, 8-11	NO
Industrial applicability (IA)	Claims	1-11	YES
	Claims		NO

### 2. Citations and explanations

1. This report makes reference to the following documents:

D1: WO 91 00826 A (YHTYNEET PAPERITEHTAAT OY), 24 January 1991 (1991-01-24)

D2: DE 90 05 581 U (HÖFLIGER GMBH), 19 July 1990 (1990-07-19), mentioned in the application

D3: US-A-4 872 571 (CRECELIUS ET AL.), 10 October 1989 (1989-10-10)

1. The application does not meet the requirement of PCT Article 33(3) because the subject matter of claims 1-3, 6 and 8-11 does not involve an inventive step.

- 2.1 Document D1 discloses a method for producing, sterilising, filling and closing a container, a closing film being sealed to the container in such a way that the pouring opening remains open until the container has been filled.

The method as per claim 1 differs from that method in that a re-closable pouring element is secured to the lid.

The present invention can therefore be considered to address the problem of improving the known method in such a way that the produced containers may be reclosed.

- 2.2 The solution proposed in claim 1 of the present application cannot be considered inventive (PCT Article 33(3)) for the following reasons:

Document D2 describes a container having an opening and comprising a body, a bottom and a lid, a pouring element with a flange secured to the lid, the closing film being sealed and the cap being mounted in order to close the container after it has been filled.

It would be obvious for a person skilled in the art to use the method known from D1 to like effect to produce reclosable containers as described in D2. It should be noted that the closing film must necessarily be secured to the pouring element in the open state in order to achieve the same effect as in D1, i.e. the simultaneous sterilisation of the closing film (see D1, page 3, line 26 - page 4, line 1).

- 2.3 It must be considered that claim 1 does not contain any features which distinguish the claimed sterilisation process from that in D1. Claim 1 does not mention sterilisation of the entire head zone of the container or an allround sterilisation of the closing film. Nor does claim 1 define the (vertical) arrangement of the closing film relative to the container lid.

3. The subject matter of claim 2 also results in an obvious manner from the combination of D1 and D2.
4. The feature of claim 3 represents only a selection from a number of obvious securing possibilities.
5. The container as per claim 6 differs from the container known from D2 in that the pouring element comprises a thread-free zone at its periphery. It should be noted that the statement in claim 6 that the thread-free zone is provided for sealing a closing film represents an indication of purpose, rather than a technical feature of the pouring element.

A thread-free zone was already used in a similar pouring element (cf. document D3, in particular figure 1). If a person skilled in the art wanted to achieve the same purpose, namely permitting the arrangement of an elongated tearing tab, in a container of the type described in document D2, he could easily apply the thread-free zone to like effect to the subject matter of D2. He would thus arrive at a container as per claim 6 without being inventive.

6. The subjects of dependent claims 8-11 relate only to obvious features known from D2.
7. The subjects of claims 4, 5 and 7 are not obvious from the searched prior art and therefore meet the novelty and inventive step requirements.